

COUNTY COUNCIL
OF
WICOMICO COUNTY, MARYLAND


BILL NO. 2007-5

INTRODUCED BY: Council at request of Executive Legislative Day No. 07-18 Date: Sep 18, 2007

AN ACT to amend Chapter 133, titled "Dogs and other animals," to revise Section 133-11, subsection D, titled "Confinement and Destruction of certain animals" to provide for the confinement or destruction of dangerous dogs, subject to a due process hearing.

Introduced, read first time, ordered posted and public hearing scheduled on: Oct 16, 2007
Time: 10:30 am Location: Council Chambers

PUBLIC HEARING: Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on October 16, 2007 and concluded on, October 16, 2007



Council Administrator

CERTIFICATION

The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the 16th day of October, 2007.



Council Administrator

Presented to the County Executive for approval this _____ day of October, 2007 at _____ a.m. (5 days §411)

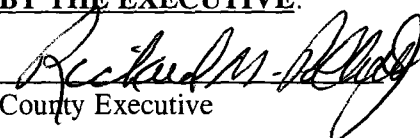


Council Administrator

BY THE EXECUTIVE:

APPROVED Date: October 17, 2007

(21 days §411)



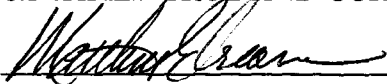
County Executive

VETOED Date:

EFFECTIVE DATE: This Bill having been approved by the County Executive and returned to the Council, becomes law on _____ and effective on: _____ (60 days §311)

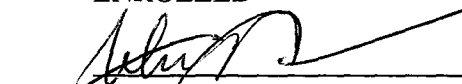
ENROLLMENT: Legislative Bill No. 2007-5 is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT



Council Administrator
Date:

ENROLLED



Council President
Date

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND
LEGISLATIVE SESSION, 2007
BILL NO. 2007-5

Introduced: September 18, 2007

BY: Mr. Cannon, Mrs. Prettyman, Mr. McCain, Mrs. Sample-Hughes, Mrs. Bartkovich, Mr. MacLeod and Mr. Holloway.

AN ACT to amend Chapter 133, titled "Dogs and other animals," to revise Section 133-11, subsection D, titled "Confinement and Destruction of certain animals" to provide for the confinement or destruction of dangerous dogs.

PREAMBLE

For the protection and promotion of the public health, safety and welfare of the citizens of Wicomico County, the Animal Control Authority and the Health Department recommend the following revisions to the Code of Wicomico County.

The County Executive has determined it advisable to recommend to the County Council the amendment of Chapter 133 of the Code of Wicomico County, to provide for the confinement or destruction of dangerous dogs, to provide for a panel to determine the designation of dangerous dogs, and to direct the appropriate action to be taken..

The County Council of Wicomico County, Maryland hereby finds that an emergency measure providing for the confinement or destruction of dangerous dogs, subject to a due process hearing, is required in order to provide for the health, safety and welfare of the citizens of Wicomico County.

SECTION I. BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION, that Chapter 133, of the Code of Wicomico County, Maryland, titled "Dogs and other animals," be amended to revise Section 133-11, subsection D, titled "Confinement and Destruction of certain animals" to read as follows:

ARTICLE III
Animal Control

§ 133-11. Confinement and destruction of certain animals.

A. When the animal control authority is unable, after reasonable effort, to seize and impound wild or rabid dogs, it may kill any such wild or rabid dogs in as humane a manner as possible.

B. Any dog, cat or ferret which appears to be suffering from rabies or affected with hydrophobia, mange or other infections or dangerous diseases shall not be released but

may be forthwith destroyed.

C. Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that the dog or cat will not attract or come into contact with male dogs or cats, except for a planned breeding. If a dog or cat, belonging to the same owner, is impounded in heat twice within 12 months, said dog or cat shall not be released to its owner unless the owner pays for the spaying or neutering of said dog or cat within one week after notice.

D. Dangerous dogs.

- (1) ~~The animal control authority may seize and impound a dangerous dog which engages in one or more of the following behaviors after having previously been determined to be a dangerous dog:~~
- (a) ~~Without provocation has killed, inflicted severe injury to or bitten a person; or~~
 - (b) ~~Has killed or inflicted severe injury to a domestic animal while off the premises occupied by the owner of the dog; or~~
 - (c) ~~Has attacked without provocation.~~
- (2) ~~After seizure and impoundment the dog may, upon order of the Health Officer or selected designee, be destroyed for the protection of the public health, safety and welfare, without regard to any restriction or holding period otherwise established herein. A dog may not be seized, impounded or destroyed pursuant to this subsection if the behavior was as a result of an activity described in § 133-7B(1).~~

- (1) AN ANIMAL CONTROL OFFICER IS AUTHORIZED AND EMPOWERED TO SEIZE AND IMPOUND A DOG WHICH THE OFFICER REASONABLY BELIEVES HAS ENGAGED IN ONE OR MORE OF THE BEHAVIORS: WITHOUT PROVOCATION HAS KILLED, INFLICTED SEVERE INJURY TO OR BITTEN A PERSON; HAS KILLED OR INFLICTED SEVERE INJURY TO A DOMESTIC ANIMAL WHILE OFF THE PREMISES OCCUPIED BY THE OWNER OF THE DOG; OR HAS ATTACKED WITHOUT PROVOCATION.
- (2) WHENEVER A DOG HAS BEEN IMPOUNDED PURSUANT TO THIS SUBSECTION, THE OWNER SHALL BE NOTIFIED WITHIN FORTY-EIGHT (48) HOURS OF THE IMPOUNDMENT OF A RIGHT TO A HEARING. A PUBLIC HEARING SHALL BE PROMPTLY SCHEDULED, AFTER RECEIPT OF A WRITTEN REQUEST BY THE OWNER BEFORE A PANEL CONSISTING OF A

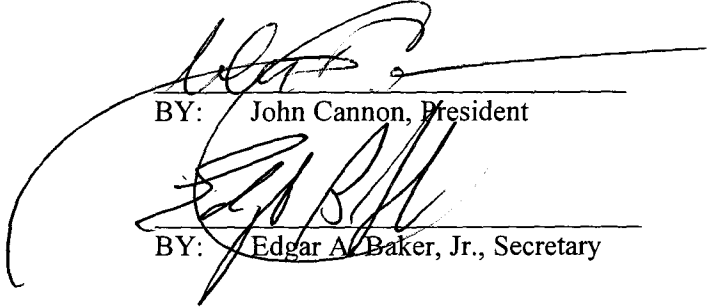
REPRESENTATIVE FROM THE SHERIFF'S OFFICE, A REPRESENTATIVE FROM THE HEALTH DEPARTMENT AND A LICENSED VETERINARIAN.

- (3) THE HEARING SHALL BE CONDUCTED IN AN INFORMAL MANNER, WITHOUT STRICT ADHERENCE TO RULES OF EVIDENCE. ALL PARTIES WITH RELEVANT AND PROBATIVE EVIDENCE SHALL HAVE AN OPPORTUNITY TO BE HEARD. AT THE CLOSE OF ALL THE EVIDENCE, THE PANEL SHALL DELIBERATE AND SHALL ISSUE WRITTEN FINDINGS OF FACT, AND CONCLUSIONS, AND AN APPROPRIATE ORDER.
- (4) IF THE PANEL DETERMINES THAT THE DOG HAS ENGAGED IN THE BEHAVIORS SET OUT IN PARAGRAPH (1)(A) OF THIS SUBSECTION, OR THAT THE DOG IS A PUBLIC NUISANCE, IT MAY REQUIRE:
 - (A) THE MANDATORY RESTRICTION OR CONFINEMENT OF THE ANIMAL UNDER SUCH CONDITIONS AS THE PANEL MAY DIRECT INCLUDING BUT NOT LIMITED TO THOSE CONDITIONS SPECIFIED IN 133-7 D, E AND F, PROVIDED THAT THE PANEL BELIEVES THAT THE OWNER OF THE ANIMAL IS CAPABLE OF RESTRAINING THE ANIMAL FROM ATTACKING, BITING OR INJURING ANY HUMAN BEING OR OTHER ANIMAL; OR
 - (B) THE MANDATORY DESTRUCTION OR OTHER DISPOSITION OF THE ANIMAL FOR THE PROTECTION OF THE PUBLIC HEALTH, SAFETY AND WELFARE, WITHOUT REGARD TO ANY RESTRICTION OR HOLDING PERIOD OTHERWISE ESTABLISHED HEREIN.
 - (C) A DOG MAY NOT BE DESTROYED PURSUANT TO THIS SUBSECTION IF THE BEHAVIOR WAS AS A RESULT OF AN ACTIVITY DESCRIBED IN § 133-7 B.

SECTION II. BE IT FURTHER ENACTED THAT this Bill is an emergency measure, necessary for the immediate preservation of the public health, safety and welfare. The Bill shall be known as Bill No. 2007-5 of Wicomico County, Maryland and shall take effect immediately upon becoming law. In the event a proper Petition for Referendum thereof shall be timely filed the Bill shall remain in force, but shall stand repealed thirty (30) days after rejection by a majority of the qualified voters of the County voting in any such referendum.

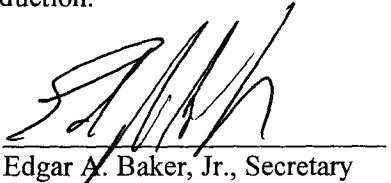
Certified correct as passed and adopted by the County Council of Wicomico County,
Maryland this day of , 2007.

WICOMICO COUNTY, MARYLAND


BY: John Cannon, President

BY: Edgar A. Baker, Jr., Secretary

I HEREBY CERTIFY that twenty-five (25) copies of the above Bill are available for
distribution to the public and press at the time of its introduction.


Edgar A. Baker, Jr., Secretary

Explanation:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

Strike out indicates material deleted from law.

CAPITAL - STRIKE OUT indicates matter stricken from Bill by Amendment.

Underlining indicates Amendments to Bill